

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

GILBERTO GUERRA, ADC #123482

PLAINTIFF

V.

NO. 2:07CV00099-WRW/BD

**ARKANSAS DEPARTMENT OF
CORRECTION, *et al.***

DEFENDANTS

ORDER

Plaintiff is proceeding *in forma pauperis* in this 42 U.S.C. § 1983 action. On August 30, 2007, the U.S. Marshal was directed to serve a Summons and Complaint upon each of the Defendants (#6). The summons was returned unexecuted (#10) on September 14, 2007, as to Defendant Smith. The Arkansas Department of Correction (“ADC”), Compliance Division, notified the Court that a first name is needed in order to identify Defendant Smith (#10).

A prisoner proceeding *pro se* and *in forma pauperis* in a § 1983 action is responsible for providing the Court and the U.S. Marshal Service with a proper service addresses for each defendant. *Lee v. Armontrout*, 991 F.2d 487, 489 (8th Cir. 1993). Plaintiff should propound an Interrogatory under Fed. R. Civ. P. 33 to the ADC requesting the names and addresses of all correctional officers employed at the East Arkansas Regional Unit during the relevant time period with the last name “Smith.” Plaintiff is advised that his discovery requests to the ADC must not be filed with the Court unless they are used in the proceeding or the Court orders filing. See Fed. R. Civ.

P. 5(d). ADC should respond to plaintiff's discovery requests within 30 days, in accordance with Fed. R. Civ. P. 33, and are further instructed to file the addresses under seal.

Plaintiff should then file a Motion for Service identifying the complete name of Defendant Smith so that he or she can be served. The Motion for Service should be filed no later than January 20, 2008. Plaintiff is notified that failure to comply with this Order may result in Defendant Smith's dismissal from this action without prejudice. See Fed. R. Civ. P. 4(m) (providing that a Court may *sua sponte* dismiss a defendant if he or she is not served within 120 days of the filing of the complaint).

IT IS SO ORDERED this 8th day of November, 2007.


UNITED STATES MAGISTRATE JUDGE